

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

KENNETH T. WALKER,

X

Plaintiffs,

Civil Action No.

-against-

PETITION FOR REMOVAL

ANGELO PHILLIP LEE and FIRST CHOICE
TRANS, INC.,

Defendants.

X

TO: JUDGES OF THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

The Petition of Tomas B. Lim, Esq., respectfully shows as follows:

1. That the undersigned is counsel for Defendants ANGELO PHILLIP LEE and FIRST CHOICE TRANS, INC. and hereby remove the civil action entitled KENNETH T. WALKER v. ANGELO PHILLIP LEE and FIRST CHOICE TRANS, INC., Index Number 511416/2022, which is currently pending in the Supreme Court of the State of New York, County of Kings, to the United States District Court for the Eastern District of New York pursuant to 28 U.S.C. §§ 1332, 1441 and 1446.
2. Attached hereto as **Exhibit A** is a copy of Plaintiff's Summons and Complaint.
3. Attached hereto as **Exhibit B** are Affidavits of Service regarding service of process on defendant ANGELO PHILLIP LEE and FIRST CHOICE TRANS, INC. on April 25, 2022.
4. Issue was joined by the service of an Answer on behalf of defendants ANGELO PHILLIP LEE and FIRST CHOICE TRANS, INC. on May 26, 2022. A copy of Defendants Answer is attached hereto as **Exhibit C**.

5. Plaintiff is a natural person domiciled in the County of Kings, State of New York. **(See Exhibit A.)**
6. Defendant ANGELO PHILLIP LEE is a natural person domiciled in Cook County, Illinois.
7. Defendant FIRST CHOICE TRANS, INC. is an Illinois corporation with its principal place of business in Cook County, Illinois.
8. Plaintiff does not name any other Defendants. **(See Exhibit A.)**
9. In his Complaint, Plaintiff seeks to recover damages resulting from an alleged accident that took place on September 27, 2021 at Atlantic Avenue on 2781 W/B Brooklyn Queens Expressway, County of Kings, State of New York. **(See Exhibit A, Paragraph 10.)**
10. The causes of action as set forth in the Complaint seek monetary damages for the alleged personal injuries of Plaintiff.
11. The Plaintiff's Complaint did not set forth an amount in controversy pursuant to CPLR § 3017(c). **(See Exhibit A.)**
12. On May 26, 2022, the Defendants, along with their Answer, served Plaintiff with various discovery demands including a Demand for Damages pursuant to New York C.P.L.R. § 3017(c) **(Exhibit D)**, and a Demand for Verified Bill of Particulars **(Exhibit E)**.
13. Plaintiff did not respond to the Defendants' Demand for Damages until July 1, 2022. **(See Exhibit F.)** However, Plaintiff's response fails to comply with CPLR § 3017(c) in that Plaintiff failed to provide an amount of damages.

14. Plaintiff also provided a Verified Bill of Particulars on July 1, 2022. **(See Exhibit G.)**

In paragraph 17 of Plaintiff's Verified Bill of Particulars, Plaintiff alleges that Plaintiff incurred special damages of at least \$85,000.00--\$50,000.00 for physician services and \$35,000.00 for hospital services. Accordingly, the thirty-day time limit began to run on July 1, 2022 and this removal is timely (July 31, 2022 was a Sunday). See U.S.C. § 1446(b)(3). This filing is also within the one-year limitation because the state court action was commenced on April 20, 2022.

15. This Court has original jurisdiction over this matter pursuant to 28 U.S.C. § 1332 because Plaintiff and Defendants are citizens of different states. In addition, the amount in controversy alleged in Plaintiff's Verified Bill of Particulars exceeds the sum or value of \$75,000.00, exclusive of interest and costs. **(See Exhibit G.)**

16. Pursuant to 28 U.S.C. § 1332(a)(1), there is complete diversity in this case because Plaintiff and Defendants are citizens of different states. Plaintiff resides in Kings County, while Defendant ANGELO PHILIP LEE is a natural person residing in Cook County, Illinois and FIRST CHOICE TRANS, INC. is an Illinois corporation with a principal place of business located in Cook County, Illinois.

17. Pursuant to 28 U.S.C. § 1446(c)(2)(A)(ii), 28 U.S.C. § 1446 (2)(B), and 28 U.S.C. § 1332(a), the amount in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs. Counsel's good faith belief regarding the amount in controversy is based upon paragraph 17 of Plaintiff's Verified Bill of Particulars. **(See Exhibit G.)**

18. Venue is appropriate in the United States District Court for the Eastern District of New York pursuant to 28 U.S.C. § 1442(a). The state court action was brought by Plaintiff in Kings County because Plaintiff resides in Kings County. **(See Exhibit A.)**

19. Defendants ANGELO PHILLIP LEE and FIRST CHOICE TRANS, INC. will give written notice of this filing of this Notice of Removal to all adverse parties as required by 28 U.S.C. § 1446(d). A copy of this written notice to adverse parties is attached as **Exhibit H**.

20. Defendants ANGELO PHILLIP LEE and FIRST CHOICE TRANS, INC. will file a copy of this Notice of Removal with the Clerk of the New York Supreme Court, Kings County, as required by 28 U.S.C. § 1446(d). A copy of this notice to the Clerk is attached as **Exhibit I**.

21. This Notice of Removal is signed pursuant to Fed. R. Civ. P. 11. *See 28 U.S.C. § 1446(a)*.

WHEREFORE, the Defendants ANGELO PHILLIP LEE and FIRST CHOICE TRANS, INC. pray that the action now pending against them in the Supreme Court of the State of New York county of Kings be removed therefrom to this court.

Dated: Cedar Knolls, New Jersey
August 1, 2022

Yours etc.,
LEARY, BRIDE, MERGNER & BONGIOVANNI, P.A.

By: s/Tomas B. Lim
Tomas B. Lim, Esq.
Attorneys for Defendants:
ANGELO PHILLIP LEE and FIRST CHOICE
TRANS, INC.
43 West 43rd Street
Suite 50
New York, NY 10036-7424
Mail to: 7 Ridgedale Avenue
Cedar Knolls, NJ 07927
973-539-2090
Our File No.: CR 30514

TO: Gennady Voldz, Esq.

Morgan & Morgan NY PLLC
350 Fifth Avenue
Suite 6705
New York, NY 10018
Attorneys for Plaintiff:
Kenneth Walker

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

KENNETH T. WALKER,

X

Plaintiffs,

Civil Action No.

-against-

VERIFICATION

ANGELO PHILLIP LEE and FIRST CHOICE
TRANS, INC.,

Defendants.

X

Tomas B. Lim, being duly sworn according to law, deposes and says:

That he is counsel for Defendants ANGELO PHILLIP LEE and FIRST CHOICE
TRANS, INC. the within named Defendants/Petitioners; that he has read the foregoing Petition
for Removal; and that the statements contained therein are true in substance and to his
knowledge.

s/Tomas B. Lim, Esq.

By: Tomas B. Lim, Esq. (TL 2036)

Executed on this 1st day of August 2022